



TEX. PENAL CODE § 31.01(4). Appropriation of property is unlawful if it is without the owner's effective consent. *Id.* at § 31.03(b)(1).

The Defendants seek summary judgment on the basis that there is no evidence to support the Plaintiffs' cause of action under the Theft Liability Act. The summary judgment record does not include any evidence that the Defendants exercised control over property without the owner's effective consent. Although the Plaintiffs allege that the Defendants improperly used materials that should have been used for the Lou AI home for the Defendants' own use, there is no evidence that such property was owned by the Plaintiffs or that the Defendants exercised control over the Plaintiffs' property without the Plaintiffs' effective consent. Accordingly, summary judgment is appropriate with respect to the claim for misappropriation under the Theft Liability Act.

Signed at Houston, Texas, on April 3, 2007.

A handwritten signature in black ink, appearing to read 'M. Isgur', is written over a horizontal line.

MARVIN ISGUR  
United States Bankruptcy Judge